

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

DR. ANDREW HUBERMAN

Plaintiff,

v.

A&D PERFORMANCE, LTD

Defendants.

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Case No. 24-cv-01484

Hon.

**COMPLAINT**

Plaintiff Dr. Andrew Huberman (“Dr. Huberman” or “Plaintiff”), brings this action against Defendant A&D Performance, LTD (“A&D”) to remedy A&D’s blatant and persistent attempts to unlawfully capitalize on the goodwill and reputation of Dr. Huberman, one the leading scientific authorities in the United States and, indeed, the world. A&D has proven itself to be a malicious actor. Despite Dr. Huberman’s repeated demands that A&D cease misappropriating Dr. Huberman’s exceptionally valuable name, likeness, voice, and/or reputation, A&D has continued to represent to its potential customers that Dr. Huberman endorses A&D and its products.

Dr. Huberman has never endorsed A&D or its products. Moreover, by all accounts, A&D is little more than a scam operation attempting to dupe consumers into buying products that in many cases A&D does not even deliver, and for whose quality Dr. Huberman does not and cannot vouch. This suit seeks damages for A&D’s persistent and flagrant abuse of Dr. Huberman’s rights and an injunction to halt such abuse.

## **PARTIES**

1. Dr. Huberman is a natural person and was at all times mentioned herein a citizen of the state of California.

2. Dr. Huberman is a neuroscientist and tenured professor in the department of neurobiology and, by courtesy, psychiatry and behavioral sciences at Stanford School of Medicine.

3. Dr. Huberman has made numerous significant contributions to the fields of brain development, brain function, and neural plasticity, which is the ability of the human nervous system to rewire and learn new behaviors, skills, and cognitive functioning.

4. Dr. Huberman is actively involved in developing tools now in use by the elite military in the United States and Canada, athletes, and technology industries to optimize performance in high-stress environments, enhance neural plasticity, mitigate stress, and optimize sleep.

5. Work from Dr. Huberman's lab at Stanford School of Medicine, known as the "Huberman Lab," has been published in top journals including Nature, Science, and Cell, and has been featured in Time, BBC, Scientific American, Discover, and other top media outlets.

6. Separate and unaffiliated with Stanford University, and functioning independently under Scicomm Media LLC., in 2021, Dr. Huberman launched his Huberman Lab podcast (the "Podcast").

7. The Podcast is frequently ranked in the top 10 of all podcasts globally and is often ranked number one in the categories of science, education, and health and fitness.

8. Dr. Huberman's research and discussions, both on the Podcast and elsewhere, garner much attention, including online.

9. The Podcast subreddit has more than 121,000 subscribers.

10. Dr. Huberman has more than 1.2 million Twitter followers and more than 5.9 million Instagram followers. Collectively, across all social media and podcast channels, Dr. Huberman and the Podcast have more than 13,000,000 followers.

11. It is fair to say that millions of people look to Dr. Huberman as an expert and consider his opinions and thinking to be of the highest quality.

12. Understanding this, Dr. Huberman only endorses products that he truly believes in and has had the opportunity to both use and study.

13. A&D Performance Ltd. is a private company limited by shares organized and existing under the laws of England and Wales, with its registered office in London, United Kingdom.

### **JURISDICTION AND VENUE**

14. This Court has jurisdiction pursuant to 15 U.S.C. § 1121 and 28 U.S.C. § 1367.

15. This Court has original jurisdiction to hear claims under the Lanham Act.

16. Because it arises from the same set of operative facts as Dr. Huberman's Lanham Act claim, this Court has supplemental jurisdiction to hear his related state law claim.

17. A&D transacts significant business in the Northern District of Illinois and throughout the United States, and thus has sufficient contacts with this District to support the exercise of this Court's personal jurisdiction, including, but not limited to, advertising, selling, and distributing its products to customers in the United States and in this District.

18. Venue is proper in this district under 28 U.S.C § 1391(c)(2) in that A&D is a corporate defendant subject to personal jurisdiction in this District. Furthermore, this forum is a

proper venue pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the acts or omissions giving rise to Dr. Huberman's claims occurred in this District.

### **STATEMENT OF FACTS**

#### **A&D's Scheme to Mislead Consumers**

19. A&D markets a range of purported health supplements, such as "turkesterone," "tongkat ali," and "fadogia agrestis." A&D advertises and promotes its products online, including on social media platforms, such as Facebook and Instagram, and on sham websites.

20. A&D owns and operates several websites through which it sells its products to customers around the world, including "andperformance.com" and "andperformances.com." A&D also sells its products through third-party websites to customers around the world.

21. The home page of andperformances.com lists "A&D Turkesterone" and "A&D AgrestaMax Fadogia Agrestis" among "Our Bestsellers."<sup>1</sup>

22. The "About Us" page includes a section titled "Our History," which appears next to a photograph of two athletes wearing A&D-branded shirts and running in what appears to be an organized race event.<sup>2</sup>

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<sup>1</sup> <https://andperformances.com/>

<sup>2</sup> <https://andperformances.com/pages/about-us>



## OUR HISTORY

On my journey to complete my first marathon, I faced setbacks due to leg injuries. Slow muscle growth complicated my rehabilitation and drove me to look for solutions. When I discovered promising but unavailable nutritional supplements, I ordered them from abroad. Her arrival brought extraordinary results - accelerated muscle growth, successful rehabilitation and an amazing marathon performance at just 18 years old.

23. Despite the website's intimation that A&D sponsors professional athletes and/or that its founder is depicted in the photo, the image is a doctored version of a stock photo available for licensing on shutterstock.com:<sup>3</sup>



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<sup>3</sup> <https://www.shutterstock.com/image-photo/setting-pace-shot-group-young-men-2139319011>

24. By default, andperformances.com displays text in German, though presents users the option to switch to English and a variety of other languages.

25. The home page of andperformance.com likewise lists turkesterone and fadogia agrestis products as “bestsellers.”<sup>4</sup>

26. Dr. Huberman, a well-regarded neuroscientist, is responsible for creating and distributing the Podcast, in which he explains and evaluates various topics relating largely to health, fitness, longevity, and other scientific topics.

27. Dr. Huberman has cultivated a large and loyal audience, and the Podcast consistently ranks among the most popular in the United States. For example, Dr. Huberman currently has over 5.8 million Instagram followers and the Podcast is currently the fifth-most-popular podcast in the United States on Spotify and the seventh-most-popular podcast in the United States on Apple Podcasts.

28. The Podcast relies heavily on Dr. Huberman’s name, likeness, and reputation as a part of the Podcast’s marketing, distribution, and monetization strategy.

29. Specifically, Dr. Huberman monetizes the Podcast in part by reading advertisements at given points within each episode. Given Dr. Huberman’s credentials and popularity, brands—particularly those marketing health and wellness products—seek out Dr. Huberman’s endorsement.

30. Dr. Huberman, in efforts to maintain the value of his name, likeness, brand, and reputation, is highly selective as to which products he chooses to advertise and endorse on the Podcast and in other media.

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<sup>4</sup> <https://andperformance.com>

31. Dr. Huberman only endorses products that he truly believes in and has had the opportunity to both use and study.

32. Various companies and individuals have attempted to capitalize on Dr. Huberman's personal brand and have suggested that Dr. Huberman has endorsed their products when in reality Dr. Huberman has done no such thing.

33. Dr. Huberman consistently and vigorously protects his name, likeness, and reputation in such instances, and has repeatedly demanded that parties engaging in such conduct cease all misappropriation of Dr. Huberman's likeness and false association with Dr. Huberman.

34. Dr. Huberman regularly appears in other media, particularly other podcasts, and opines on topics related to health, fitness, and wellness. These appearances further develop Dr. Huberman's reputation as a health and science expert and expand the Podcast's audience.

35. All told, Dr. Huberman has invested and continues to invest significant time, effort, and resources into developing, marketing, expanding, and protecting his personal brand and reputation as a respected commentator on matters of science, health, wellness, and beyond.

36. A&D has attempted and continues to attempt to wrongfully capitalize on Dr. Huberman's name recognition, popularity, and credibility.

37. Of relevance to this dispute, on July 17, 2021, Dr. Huberman appeared on the Joe Rogan Experience podcast, which is currently the most popular podcast in the United States according to Spotify.

38. During his appearance on the Joe Rogan Experience, Dr. Huberman discussed the potential health benefits of tongkat ali and fadogia agrestis, both of which are herbal supplements.

39. On December 6, 2023, A&D posted a video to its Instagram account “and\_performance.” The post—a screenshot of which is reproduced below—claims that A&D sells “Huberman’s Favourite Supplement Stack!” and includes the hashtag “#huberman”:



40. The video purports to reproduce the conversation in which Dr. Huberman discussed tongkat ali and fadogia agrestis.

41. The video purports to show Huberman specifically recommending that listeners purchase supplements containing tongkat ali and fadogia agrestis from “andperformance.com.”



42. On information and belief, the video contains a “deepfake” replica of Dr. Huberman’s distinctive and recognizable voice, as Dr. Huberman has never endorsed A&D on the Joe Rogan Podcast, nor any other forum

43. Moreover, A&D’s video purportedly shows Dr. Huberman making specific claims about the effectiveness of tongkat ali and fadogia agrestis that Dr. Huberman did not make during his appearance on the Joe Rogan Experience.

44. On information and belief, A&D used generative artificial intelligence to create the video and the impression that Dr. Huberman made such statements.

45. The deepfake is sufficiently convincing that it is not possible to immediately determine whether or not the voice purported to be Dr. Huberman’s is in fact that of Dr. Huberman.

46. To conclusively determine that the video is partially generated by artificial intelligence, it is necessary to listen to the original audio of Dr. Huberman’s July 17, 2021 appearance on the Joe Rogan Experience.<sup>5</sup>

47. A&D publicly posted the video on A&D’s Instagram page, including to users in the United States and in this District.

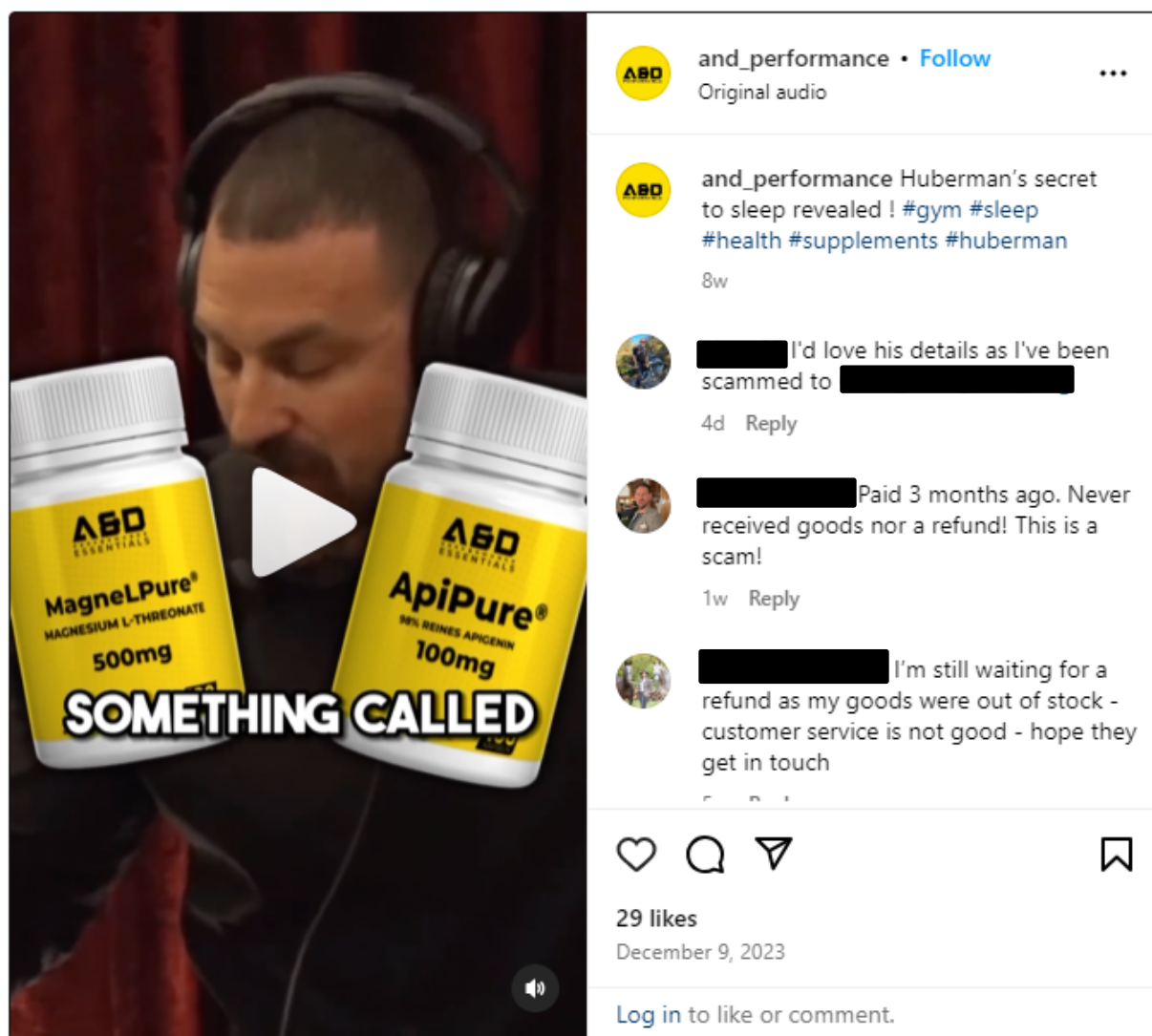
48. Three days later, on December 9, 2023, A&D launched another video advertisement that blatantly misappropriates Dr. Huberman’s name, image, likeness, voice, and reputation using generative artificial intelligence.

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<sup>5</sup> The original conversation between Dr. Huberman and Joe Rogan that A&D subsequently doctored can be found at [https://www.youtube.com/watch?v=bJWmJo3w\\_0Y](https://www.youtube.com/watch?v=bJWmJo3w_0Y).

49. As with the December 6, 2023 video, this advertisement manipulates audio from Dr. Huberman's July 17, 2021 appearance on the Joe Rogan Experience.

50. The video purports to show Dr. Huberman explaining the benefits of certain herbal compounds. The video displays images of A&D products overlaid on Dr. Huberman:



51. The video purports to show Dr. Huberman recommending that listeners purchase A&D's products because they are "cheaper" and "more pure."

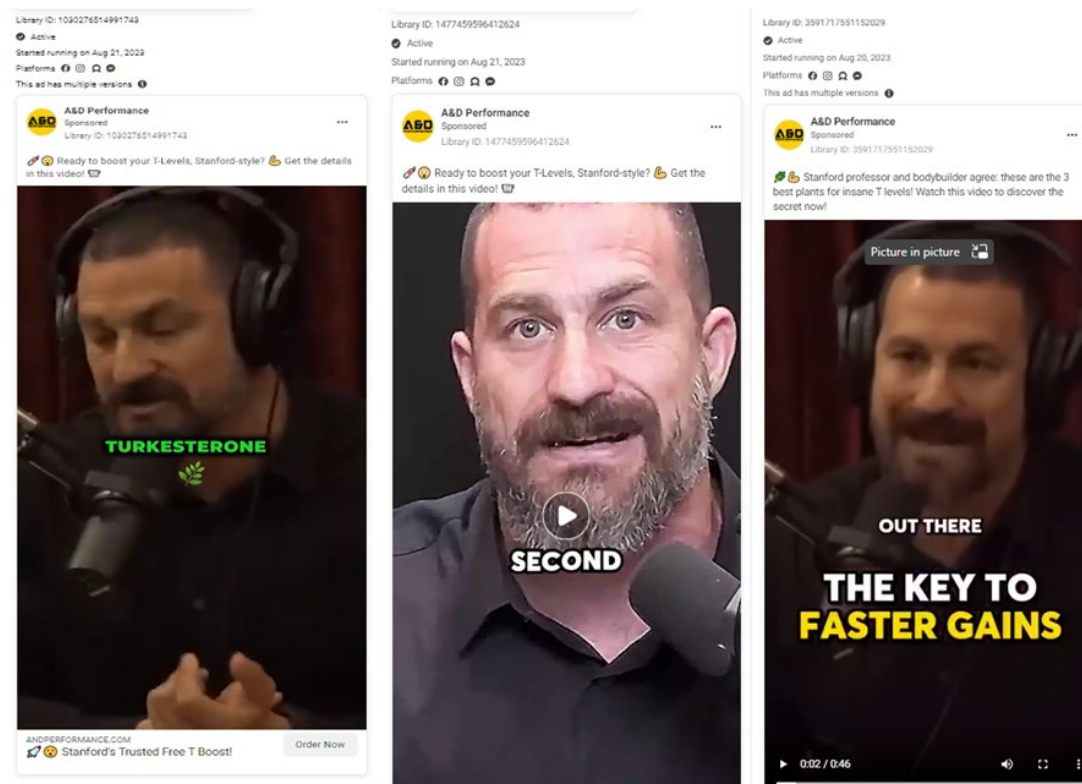
52. The video ends with Dr. Huberman purporting to say "A&D Performance.com, that's the best."

53. Dr. Huberman made no such statements regarding A&D during his appearance on the Joe Rogan Experience, nor in any other forum. The audio is, on information and belief, the output of generative artificial intelligence deployed by A&D to capitalize on Dr. Huberman's substantial goodwill with his audience.

54. As with the December 6, 2023 video, the manipulated audio is sufficiently convincing that it can only be definitively identified as fraudulent upon a review of Dr. Huberman's recorded appearance on the Joe Rogan Experience.

55. Likewise, the video has received numerous comments from Instagram users who reported that they had been "scammed" by A&D, which allegedly failed to deliver products these users had ordered from the company.

56. In August of 2023, A&D launched similar advertisements on Facebook and other Meta platforms, each one conspicuously using video and audio purporting to show Dr. Huberman endorsing A&D and/or its products:



57. On information and belief, A&D used generative artificial intelligence to mimic Dr. Huberman’s voice and/or appearance in these advertisements, as well.

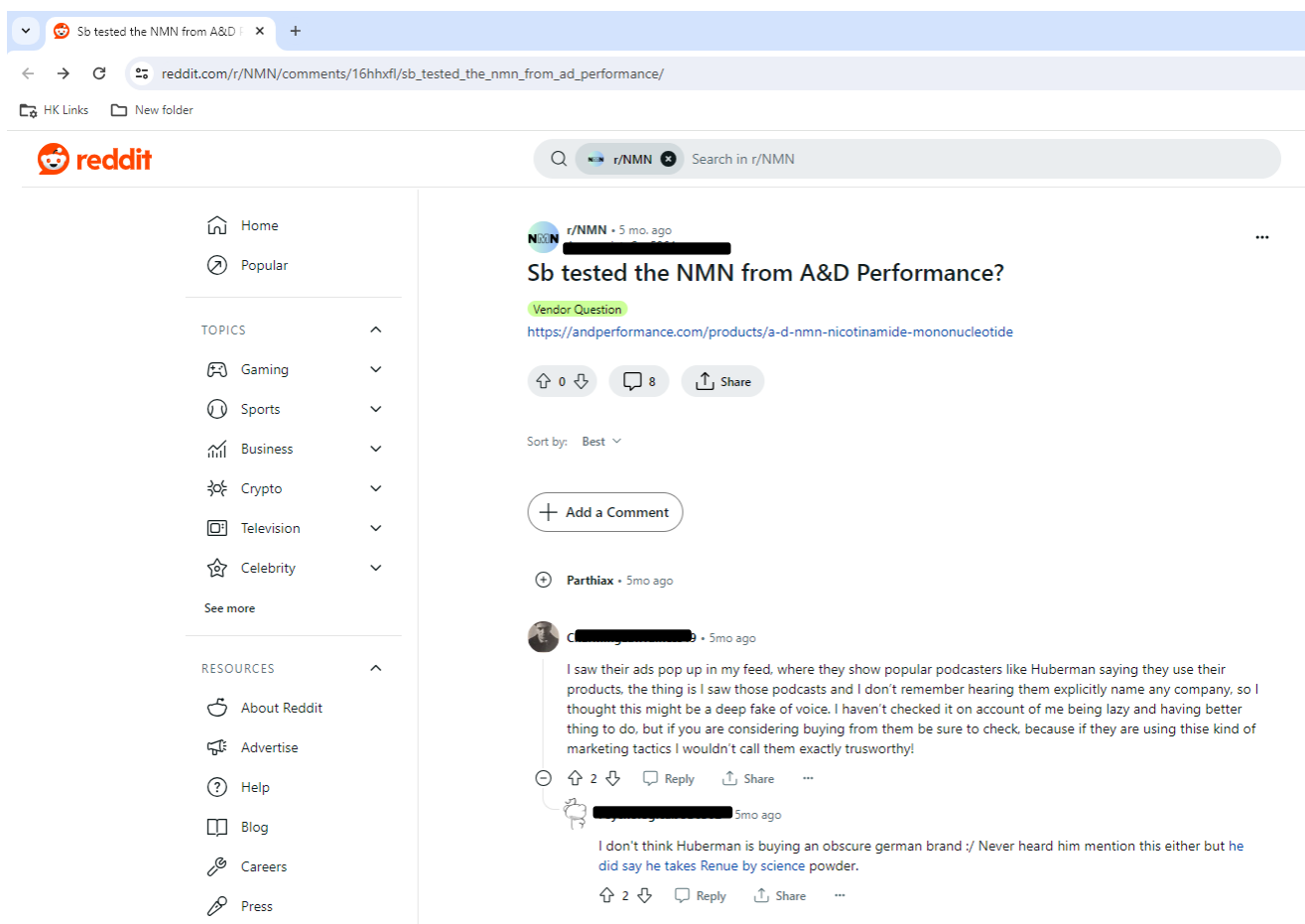
58. Dr. Huberman has never endorsed A&D products nor advertised its products on the Podcast or in any other forum.

59. Dr. Huberman has never granted A&D permission to use his likeness, image, name, voice, or any other facet of his identity in advertising its products.

60. Defendant’s unauthorized and deceptive use of Dr. Huberman’s likeness and name has caused actual confusion among consumers who have been given the false impression that Dr. Huberman has endorsed or is associated with A&D and its products.

61. Indeed, the Instagram advertisement reproduced above itself prompted feedback from Instagram users complaining that A&D had failed to ship its products and asserting that A&D is a “scam company.”

62. A&D's flagrant misrepresentations have sparked discussion among Podcast listeners as to whether Huberman has, in fact, endorsed A&D and its products. For example, in a discussion on reddit.com, a user questioned whether ads purporting to show that Huberman "use[s] their products" were legitimate or "a deep fake of voice":<sup>6</sup>



63. Moreover, Dr. Huberman has received numerous communications from Podcast listeners and other consumers of his content inquiring as to whether he has formally endorsed A&D and/or its line of products.

<sup>6</sup> https://www.reddit.com/r/NMN/comments/16hhxfl/sb\_tested\_the\_nmn\_from\_ad\_performance/

64. On information and belief, Defendant's use of Dr. Huberman's likeness and name in advertisements and marketing materials across various channels has directly resulted in sales of A&D's products.

65. On September 8, 2023, Dr. Huberman, by and through counsel, wrote to A&D and demanded that it cease all use of Dr. Huberman's name and likeness in A&D's advertising and marketing.

66. On or about September 16, 2023, a representative of A&D responded to Dr. Huberman that A&D had "updated the Ad library and apologize[d] for every inconvenience."

67. Nonetheless, and despite repeated and unequivocal assurances from A&D that it had removed all infringing advertisements, A&D *reinitiated* its infringing advertisements on Facebook and Instagram.

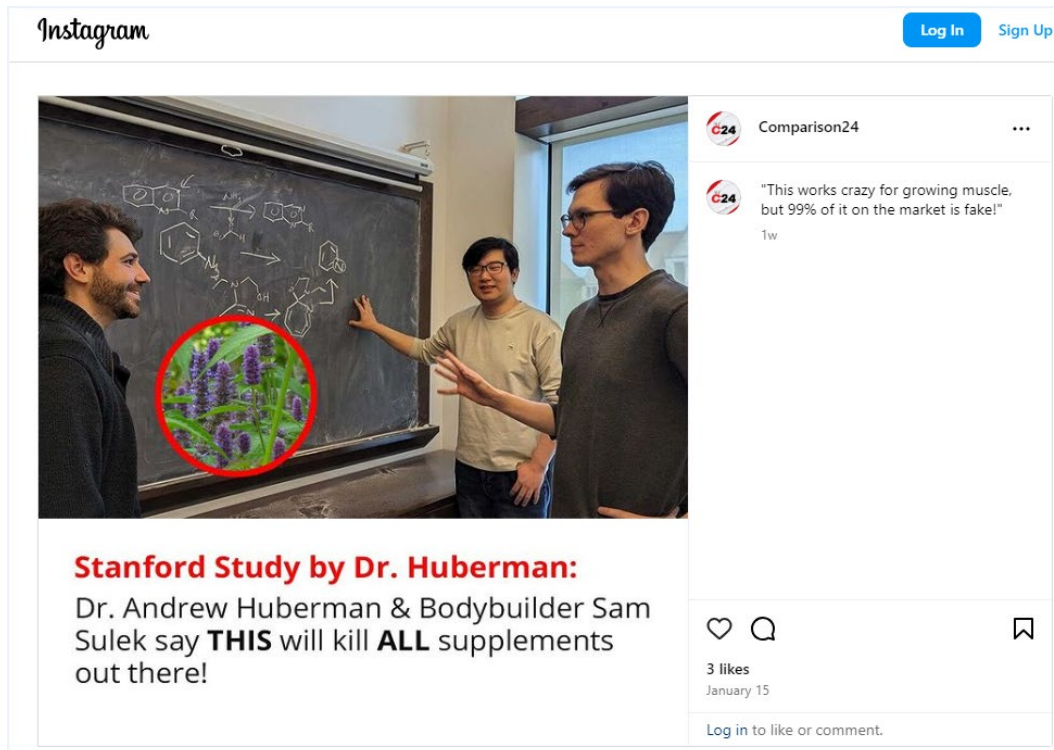
68. Moreover, months after Dr. Huberman initially demanded that A&D cease all misappropriation of his likeness – and after A&D had agreed to cease all misappropriation – on information and belief, A&D launched a website at the address "mycompare24.com" (hereinafter "Compare24").

69. Compare24—which purported to be an "independent comparison portal"—was, on information and belief, merely a stand-in for A&D itself whose entire purpose was to funnel consumers to A&D's website.

70. Compare24 advertised the "turkesterone," "tongkat ali," and "fadogia agrestis" supplements sold by A&D and represented that Dr. Huberman endorsed the products for their health benefits:



71. On its Instagram account, Compare24 made several other references to Dr. Huberman in blatant attempts to capitalize on his reputation and popularity:



72. On information and belief, A&D, using Compare24, misappropriated Dr. Huberman's name, likeness, and reputation by including hyperlinks to A&D's websites and suggesting that readers purchase A&D's products.

73. On information and belief, the links to A&D contained in the Compare24 webpages have directly resulted in sales of A&D's products.

74. On January 15, 2024, Dr. Huberman, through counsel, informed A&D that he was aware of Compare24 and demanded that A&D take the website down, along with the multiple infringing advertisements that were still available as of that date.

75. Shortly thereafter, the Compare24 website was no longer available to the public, evidencing that A&D controlled that website. Nevertheless, the Compare24 Instagram page remains active.

A&D's Sales and Advertising to this District

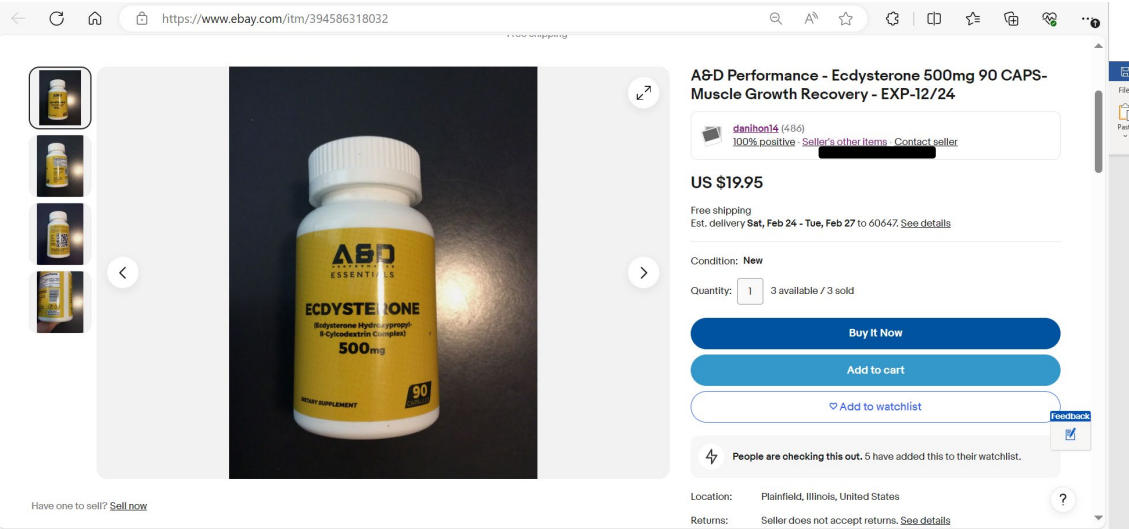
76. A&D is offering to sell products into this District and, more generally, to the United States both from A&D's website and through third-party sellers.

77. Merely as an example, A&D products are being sold on third-party websites from within this District:<sup>7</sup>

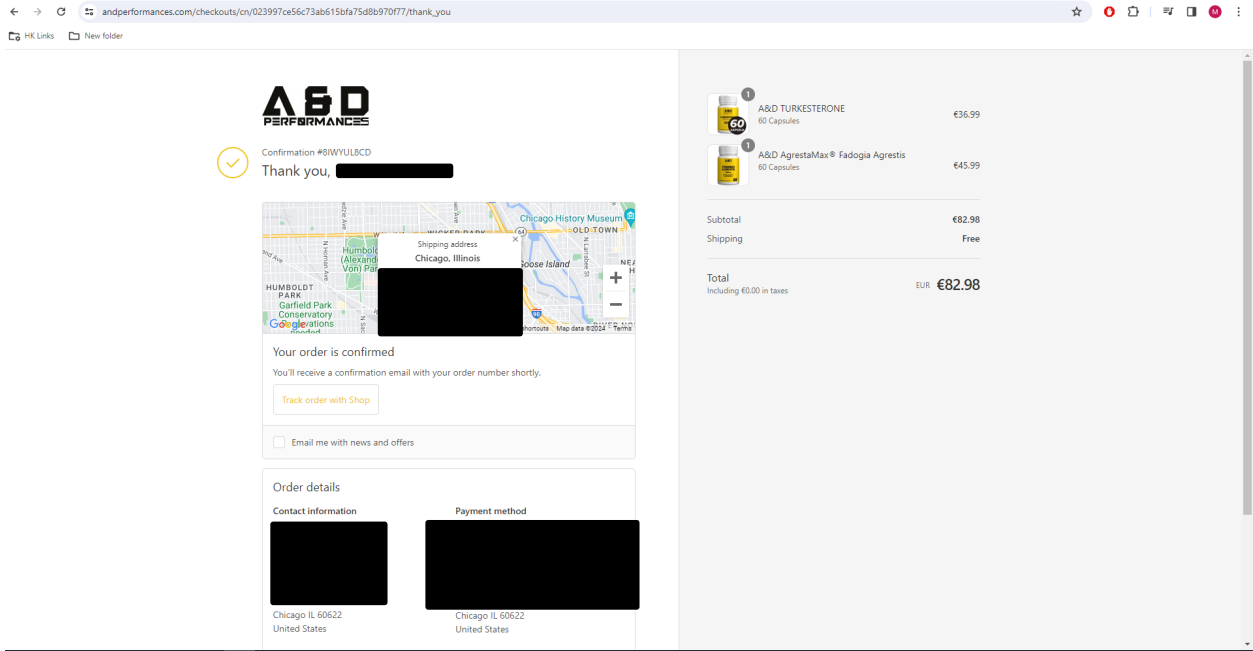
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<sup>7</sup> <https://www.ebay.com/itm/394586318032>

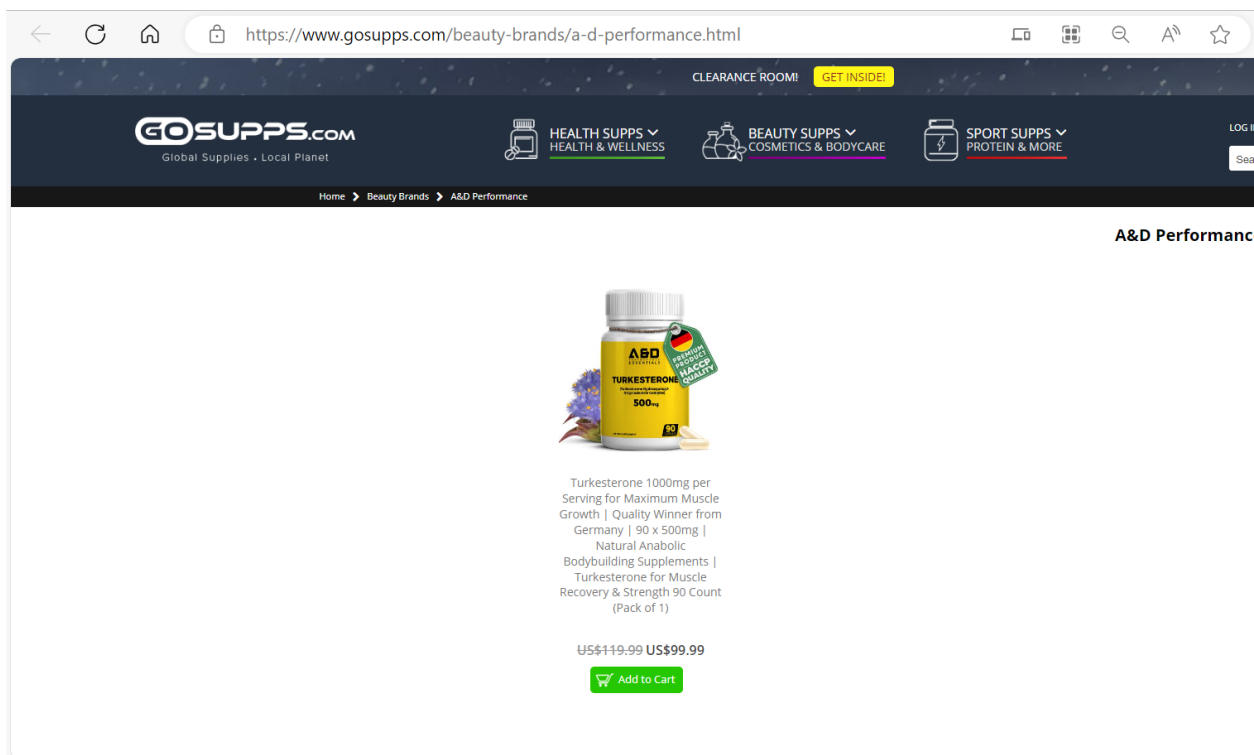




78. Through its website andperformances.com, A&D also takes orders and accepts payment from buyers located in the United States and this District:



79. A&D also makes products available for sale to consumers in this district on a third-party website that notes that it ships A&D products “only...from official suppliers” in the United Kingdom, where A&D is organized:<sup>8</sup>



<sup>8</sup> <https://www.gosupps.com/beauty-brands/a-d-performance.html>

Checkout

Checkout using your account:

[LOGIN](#)

OR

Checkout as a new customer:

**Billing Address**

First Name\* Last Name\*

Email Address\*

Address Line 1\*

Address Line 2

City\* Country\*

State/Province\* Zip/Postal Code\*

Telephone\*

Create a New Password\* Confirm Password\*

☒ Ship to this address

**Shipping Method**

Please make sure to fill your address correctly first.

**BE SAFE WE ONLY SHIP FROM OFFICIAL SUPPLIERS**

From United Kingdom

To United States

In 5-10 Days

US\$19.99 Shipping Fees for any Order

**Payment Method**

☐ Pay by Card

☐ Stripe and Apple Pay

Products Total US\$99.99

Shipping US\$0.00

**Grand Total US\$99.99**

[Place Order Now](#)

Gift and Discount Code

80. A&D Products are also available for purchase by consumers in this district from a distributor based in the United States, which offers free shipping throughout the country.<sup>9</sup>

81. Additionally, A&D products being sold through A&D's Amazon store include many reviews from consumers in the United States, evidencing both their marketing and actual sales into the United States.

82. At least nine of these US-based reviews on A&D's Amazon store are reviews where the consumer received the product at no charge to elicit a review.<sup>10</sup>

<sup>9</sup> See e.g., [https://ibspot.com/products/ecdyserone-500mg-for-muscle-growth-and-recovery-quality-winner-2023-ecdysterone-500mg-per-serving-size-beta-ecdysterone-bodybuilding-tablets-for-achieving-an-aesthetic-physique?variant\\_id=5503775&srsId=AfmBOouLXzHjfwDOlUV3jTkadLXeJZEYWncq1AevfLpG47tPaY-dgW-z3k](https://ibspot.com/products/ecdyserone-500mg-for-muscle-growth-and-recovery-quality-winner-2023-ecdysterone-500mg-per-serving-size-beta-ecdysterone-bodybuilding-tablets-for-achieving-an-aesthetic-physique?variant_id=5503775&srsId=AfmBOouLXzHjfwDOlUV3jTkadLXeJZEYWncq1AevfLpG47tPaY-dgW-z3k)

<sup>10</sup> See e.g., <https://www.amazon.com/-/he/TURK120/dp/B0BTDC4XJZ>

83. A&D continues to advertise and market to consumers within this District and throughout the United States.

**COUNT 1: FALSE ENDORSEMENT**  
(15 U.S.C. § 1125(a)(1)(A): False Endorsement)

84. Plaintiff hereby incorporates by reference every allegation set forth in paragraphs 1 through 83 of this complaint, as though fully set forth herein.

85. As described above, A&D used Dr. Huberman's name, image, voice, likeness, and reputation in efforts to commercialize, advertise, and market its products.

86. A&D did so without authorization and has continued its conduct despite Dr. Huberman's repeated demands that it cease any and all use of his name, image, voice, likeness or reputation.

87. A&D's use of Dr. Huberman's name, image, and likeness is likely to cause and has caused actual confusion among consumers, leading them to mistakenly believe that there is an affiliation, connection, or association between Dr. Huberman and A&D and that Dr. Huberman endorses A&D and/or its products.

88. As a result of A&D's conduct in violation of § 1125(a), Dr. Huberman has suffered damages. Pursuant to 15 U.S.C. § 1117(a), Dr. Huberman is entitled to recover these damages, as well as any profits earned by A&D as the result of its unlawful misappropriation of Dr. Huberman's name, image, voice, and likeness.

89. Dr. Huberman is also entitled to recover all costs and fees of bringing this action.

**COUNT 2: RIGHT OF PUBLICITY**  
(765 ILCS 1075/1 *et seq.*)

90. Plaintiff hereby incorporates by reference every allegation set forth in paragraphs 1 through 89 of this complaint, as though fully set forth herein

91. The Illinois Right of Publicity Act (the “Act”) states that “the right to control and to choose whether and how to use an individual's identity for commercial purposes is recognized as each individual's right of publicity.” 735 ILCS 1075/10.

92. The Act further provides that “a person may not use an individual's identity for commercial purposes during the individual's lifetime without having obtained previous written consent.” 735 ILCS 1075/30(a).

93. A person who violates another’s right under the Act may be liable for the greater of actual damages or \$1,000. 735 ILCS 1075/40(a).

94. The Act also states that “punitive damages may be awarded against a person found to have willfully violated Section 30 of this Act.” 735 ILCS 1075/40(b).

95. The Act further authorizes the issuance of injunctive relief. 735 ILCS 1075/50

96. As described above, A&D used Dr. Huberman ‘s name, voice, likeness, and reputation in effort to commercialize, advertise, and market its products.

97. A&D did so without authorization and has continued its conduct despite Dr. Huberman’s consistent demands that it cease any and all use of his name, image, voice, likeness, or reputation.

**WHEREFORE**, Dr. Huberman prays for judgment against Defendant as follows:

1. For general and compensatory damages to be proven at trial, including disgorgement of A&D’s unlawfully earned profits;
2. For punitive damages in an amount to be determined at trial;
3. For costs of suit incurred herein;
4. For reasonable attorneys’ fees;
5. For injunctive relief; and

6. For such other and further relief as the court deems just and proper.

**JURY DEMAND**

Plaintiff demands trial by jury, under Fed. R. Civ. P. 38.

Dated: February 22, 2024

Respectfully submitted,

**ANDREW HUBERMAN**

By: /s/ Anthony J. Fuga  
One of His Attorneys

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